



## **Chapter 173-18, 173-20, 173-22, and 173-27 WAC**

### **Small Business Economic Impact Statement for the Proposed Shoreline Management Act Rules Update Chapter 173-18, 173-20, 173-22, and 173-27 WAC**

August/2006

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## Introduction

These proposed rule amendments will defer administrative updates to local shoreline master programs (SMP) Cities and counties across the state. Many of these programs have not been amended since they were first adopted in the 1970s and are scheduled to be “updated” over the next 15 years. The Department of Ecology is currently providing grant funding and technical assistance to these local projects for a two year update period, and is responsible for reviewing and approving the updated programs. Updated maps and list of “Shorelines of the State” will be a fundamental element of the new city and county SMPs. This rule will require local jurisdictions to now provide formal updates every 3 years after the scheduled update periods.

The Department of Ecology proposes to amend its rules to eliminate these lists of water bodies in Washington Administrative Code. New rule language allows local jurisdictions to provide updated mapping and lists as part of their Shoreline Management Plan. The proposed rule amendment will provide consistency of information and avoid potential legal conflicts between Ecology’s current (old WAC) rule language and updated (new) local shoreline master programs.

## Objective of the SBEIS

The objective of this SBEIS is to identify and evaluate the various requirements and costs that the proposed rule or rule amendments might impose on business. In particular, the SBEIS examines whether the costs on business that might be imposed by the proposed rule amendments impose a disproportionate impact on the State’s small businesses. This is consistent with the legislative purpose of the Regulatory Fairness Act (RCW 19.85) and is set out in RCW 19.85.011:

*“The legislature finds that administrative rules adopted by state agencies can have a disproportionate impact on the state’s small businesses because of the size of those businesses. This disproportionate impact reduces competition, innovation, employment, and new employment opportunities, and threatens the very existence of some small businesses. The legislature therefore enacts the Regulatory Fairness Act with the intent of reducing the disproportionate impact of state administrative rules on small business”.*

The specific purpose and required contents of the SBEIS is contained in RCW 19.85.040. (The bracketed numbers and emphasized words are for the reader’s convenience, and reflect some of the organization of this draft SBEIS.)

*“(1) A small business economic impact statement must include [1] a brief description of the reporting, record keeping, and other compliance requirements of the proposed rule, and [2] the kinds of professional services that **a small business** is likely to need in order to comply with such requirements. [3] It shall analyze the costs of compliance **for businesses required to comply with the proposed rule** adopted pursuant to RCW 34.05.320, including costs of equipment, supplies, labor and increased administrative costs. [4] It shall consider, based on input received, whether compliance with the rule will cause*

*businesses to lose sales or revenue. [5] To determine whether the proposed rule will have a disproportionate impact on small businesses, the impact statement must compare the costs of compliance for small businesses with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:*

- a. Cost per employee*
- b. Cost per hour of labor*
- c. Cost per hundred dollars of sales*

*(2) A small business economic impact statement must also include:*

*a. [6] A statement of the steps taken by the agency to reduce the costs of the rule on small businesses as required by RCW 19.85.030(3), or reasonable justification for not doing so, addressing the options listed in RCW 19.85.030(3).*

*b. [7] A description of how the agency will involve small business in the development of the rule; and*

*c. [8] A list of industries that will be required to comply with the rule. However, this subsection (2) (c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply”.*

For purposes of an SBEIS, the terms “business,” “small business,” and “Industry” are defined by RCW 19.85.020. “Small business” means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees. “Industry” means all of the businesses in this state in any one four-digit standard industrial classification as published by the United States Department of Commerce.

## **Costs Imposed on Businesses.**

The proposed rule amendments are directed at local governments who are reviewing the condition of their shorelines and who will be adopting updated SMPs. The proposed updates only administratively clarify rule language and eliminate redundancy.

Since no business is directly affected by the rule update no costs or disproportionality can be assumed. As discussed above, the proposed rule updates do not require any “business” to conduct ongoing reporting or record keeping. Nothing in the proposed rules are likely to result in increased administrative costs, or add general requirements for equipment, supplies or labor for businesses in general.

## **Whether the Proposed Rule Will Have a Disproportionate Impact on Small Businesses**

This analysis is provided to meet the guidelines of the Regulatory Fairness Act (RCW 19.85). To comply with the RFA, the SBEIS must identify potentially affected industries, define small and large businesses, and determine the compliance costs for these businesses. It then must compare the cost of compliance for small businesses with the cost of compliance for large businesses. If there turns out to be a disproportionate impact on small businesses in comparison with large businesses, the RFA requires that the costs imposed by the rule on small businesses be reduced where legal and feasible in meeting the objective of the statutes upon which the rule is based. If steps are not taken to reduce costs on small business, the agency must provide reasonable justification for not doing so.

As noted previously no small business are directly affected by the current rule amendments.

## **Actions Taken to Reduce the Impact of the Rule on Small Business.**

Because proposed updated rule language only clarifies existing language, no direct impacts to small businesses exist. It is assumed without an impact from the new rule, there is also no need for mitigation of impacts.

Mitigation requirements are also intended to allow opportunity for creative approaches and a wide variety of alternatives. It is assumed local Shoreline Management Programs would use mitigation techniques in the development of their program. These local programs can use specific local approaches that minimize cost impacts to local business interests.

## **How Business Was Involved in Development of the Proposed Rule**

Ecology distributed early versions of draft rule text to various persons and organizations including business oriented associations. Ecology provided them with background information on the rule update, rule revised rule text and requested their comments and concerns. These distribution occurred in September 2005 and May 2006 to the following 'business' parties: Association of Washington Business, Washington Association of Realtors, Washington State Farm Bureau, Washington State Grange, Associated General Contractors, Washington Aggregates and Concrete Association, Building Industry Association of Washington, Association of Washington Business Land Use Policy committee.

On several occasions Ecology's SEA Program Senior Policy and Legislative lead staff discussed the proposed rule amendments with the Association of Washington Business Land Use Policy committee via email, phone and in-person meetings.

## **List of Industries Required to Comply with the Proposed Guidelines**

No industries will be required to comply with current rule amendments.

## **Conclusions**

The proposed rule amendments administratively clarify rule language, and eliminate redundancy. The rule amendments only affect local government, not small business.

## **References**

1. Washington State Department of Ecology, Small Business Economic Impact Statement: Shoreline Master Program Guidelines, Publication 03-06-036, (2003)
2. Washington State Department of Ecology, Evaluation of Probable Benefits and Costs: Amended Shoreline Master Program Guidelines, Publication 03-05-035, (2003)
3. Washington State Department of Ecology, Evaluation of Probable Benefits and Costs: Amended Shoreline Master Program Guidelines, Publication 00-06-043, (2000)
4. Washington State Department of Ecology, Proposed Shoreline Master Program Guidelines Final Environmental Impact Statement, Publication 00-06-020, (2000)